

Docket No.: 30003033-2 (1509-188)

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of	:	
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I'ANSON, COLIN	:	Confirmation No.5161
	:	
U.S. Patent Application No. 09/881,040	:	Group Art Unit: 2645
	:	
Filed: June 15, 2001	:	Examiner: MD ELAHEE
For: SERVICE DELIVERY METHOD AND SYSTEM		

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants respond to the May 13, 2008 restriction requirement by electing, with traverse, the claims of Group I.

The traverse of the restriction requirement is because, *inter alia*, the requirement is not timely. The application has been pending since June 15, 2001. The first office action was December 16, 2003, which was followed by a response by applicants on March 16, 2004. Then there was a final rejection on June 4, 2004 which was followed by a submission by applicants of an Information Disclosure Statement and the filing of a Request for Continued Examination on October 4, 2004. Then a non-final rejection was issued on March 4, 2005, followed by a June 6, 2006 amendment. There was a final rejection on August 25, 2005. In response to applicants' November 23, 2005 response to the final rejection, the PTO issued a first restriction requirement on January 3, 2006. The first restriction requirement was withdrawn and a new non-final rejection was issued November 14, 2007. The May 13, 2008 second restriction requirement followed a response by applicants on February 14, 2008, which added dependent claims, some of which are included in Group I, and others of which are included in Group II.

Claims 28-42 of Group II, directed to a service delivery method, have been pending since May 31, 2002, that is, prior to the December 16, 2003 first office action. Claims 1, 7-11, and 13-27 of Group I, directed to a service delivery method and system, have been pending since the application was filed.

MPEP section 811 indicates the examiner should make a proper restriction requirement as early as possible in the prosecution and that the restriction requirement should be in the first action, if possible. If the restriction requirement is not made in the first action, it should be made as soon as the need for a proper requirement develops. Before making a restriction requirement after the first action on the merits, the examiner must consider whether there will be a serious burden if restriction is not required. In the present case, the examiner has had more than ample time to make a restriction requirement. He has not shown why there will be a serious burden if restriction is not required. A restriction requirement in this case, at this time, is an enormous burden on applicants and the public, because it prevents both the applicants and the public from knowing what coverage will ultimately be obtained from the present application.

The restriction requirement, at this time, unnecessarily prolongs prosecution. The fact that the only independent claims of Groups I and II have been repeatedly considered by the PTO indicates there is not a serious burden on the PTO with regard to the claims of Groups I and II.

The office action erroneously alleges the claims of Group I are drawn to "Call diversion." Independent claims 1 and 18 of Group I have nothing to do with "call diversion."

Instead, claim 1 is concerned with a service delivery method in which a transaction of a user purchasing a service or product is performed. After the transaction is performed location data and a user-associated instance of an executable program, for implementing the service, are stored. Subsequently, a location match is detected between the location of the user and a location indicated by the location data, which is followed by initiating execution of the user-assisted program instance to deliver

the particular service to the user.

Independent service delivery system claim 18, of Group I, relates to location-data and service repositories, in combination with a service factory and a qualification subsystem for conducting a transaction of a user purchasing a service or product that qualifies the user to benefit from a particular location-triggered service. The qualification subsystem determines that the user is qualified, and creates in the service factory and the store in the service repository a user-associated instance of an executable program for implementing the particular service, wherein the program instance is customized for the transaction and is distinct from the location data. A service execution environment executes user-associated program instances, and a location-match subsystem detects a location match between the location of the user and a location indicated by the location data. A controller arrangement responds to the location-match subsystem detecting the location match, to cause the control arrangement to initiate execution of the user-associated program instance to deliver a particular service to the user.

Based on the foregoing, there is nothing in the claims of Group I relating to "call diversion" and the restriction requirement is wrong on a substantive basis, as well as the procedural basis previously discussed.

An action on the merits of all claims is in order.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 08-2025 and please credit any excess fees to such deposit account.

Respectfully submitted,

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